

## **REMARKS**

This paper is filed in response to the Office Action mailed March 6, 2008.

Claims 1-13, 16-23, and 26-32 are pending in this application. Claims 6 and 20 are rejected under 35 U.S.C. § 112, ¶ 1 for allegedly failing to comply with the written description requirement. Claims 19-23, 26-28, 30, and 32 are rejected under 35 U.S.C. § 101 for allegedly being directed to non-statutory subject matter. Claims 1-3, 5-13, 16, 17, 19-23, 26, 27, and 29-32 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. 5,880,411 to Gillespie et al (“Gillespie”) in view of U.S. Patent No. 6,590,568 to Astala et al (“Astala”). Claim 4 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Gillespie in view of Astala and further in view of U.S. Patent Publication No. 2003/0063073 to Geaghan et al (“Geaghan”). Claims 18 and 28 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Gillespie in view of Astala and further in view of U.S. Patent No. 6,118,435 to Fujita et al (“Fujita”).

Applicant has amended the specification. No new matter is added by this amendment, and support may be found in the specification and claims as originally filed.

Applicant traverses each of the Examiner’s rejections and respectfully requests reconsideration and allowance of all claims in light of the remarks below.

As a preliminary matter, the Applicant notes that the Examiner appears to use the terms “pressure” and “change in pressure” interchangeably in the various rejections of the claims. This is incorrect because the two terms refer to different characteristics or values. As such, the use of one term should not be construed by the Examiner as a use of the other.

### **I. § 112, ¶ 1 – Claims 6 and 20**

Claims 6 and 20 were rejected under 35 U.S.C. § 112, ¶ 1 as failing to comply with the written description requirement.

To satisfy the written description requirement of 35 U.S.C. § 112, ¶ 1, the applicant must describe the claimed invention with all of its limitations. See M.P.E.P. § 2163(I).

In the Office Action, the Examiner states that

The specification does not disclose in step 322 that the change in pseudo pressure is compared to a first pressure threshold value and a second pressure threshold value, and outputting the signal if the pressure signal is greater than both first pressure threshold value and the second pressure threshold value. See Office Action, p. 3.

However, regardless of whether the Examiner's statement is true, the specification does provide written description for comparing a pressure value against two threshold values as recited in claims 6 and 20. For example, paragraph 41 recites that "[i]n the embodiment shown in FIG. 2, the processor (106) compares the pseudo pressure against both lower and upper thresholds to determine whether the finger is touching." Further, in paragraph 46, the specification recites "[i]n the embodiment shown in FIG. 3, a processor (106) executing program code first compares the pseudo pressure to an upper threshold value 302. If the pseudo pressure exceeds the upper threshold value, the process continues at step 314. If not, the processor (106) determines whether the user was previously touching, for example by checking the value of a stored flag 304. If so, the processor (106) compares the pseudo pressure to a lower threshold value 306." As such, with regards to both of figures 2 and 3, the specification describes comparing a pressure value to a first and second threshold value.

Further, Applicant would like to note that in the rejection, the Examiner stated that "the change in pseudo pressure is compared to a first pressure threshold value and a second pressure threshold value." This is not accurate based on the claim language. The claim language of claims 6 and 20 recites that a "pressure signal," not a "change in pressure," is compared against first and second thresholds.

In view of the foregoing, Applicant respectfully requests the Examiner withdraw the rejections of claims 6 and 20.

## II. § 101 – Claims 19-23, 26-28, 30, and 32

Applicant respectfully traverses the Examiner's rejection of claims 19-23, 26-28, 30, and 32 under 35 U.S.C. § 101 as being directed towards non-patentable subject matter. The Examiner asserts that Applicant's definition of a computer-readable medium includes a signal *per se*, which were adjudged non-patentable subject matter in *In re*

*Nuijten*<sup>1</sup>. Applicant expressly states that, for the purposes of this application, the term computer-readable medium does not include a signal *per se*. However, to expedite prosecution, Applicant has cancelled the portion of the specification that the Examiner alleges recites a signal *per se*. Applicant respectfully requests the Examiner withdraw the rejection of claims 19-23, 26-28, 30, and 32.

III. § 103(a) – Gillespie in view of Astala – Claims 1-3, 5-13, 16, 17, 19-23, 26, 27, and 29-32

Applicant respectfully traverses the rejection of claims 1-3, 5-13, 16, 17, 19-23, 26, 27, and 29-32 under 35 U.S.C. § 103(a) as being unpatentable over Gillespie in view of Astala.

To sustain a rejection under 35 U.S.C. § 103(a), the combined references must teach or suggest each and every element of the claimed invention. See M.P.E.P. § 2143.03.

Because Gillespie in view of Astala does not teach or suggest “outputting a press signal if the velocity is less than a velocity threshold, the change in pressure is greater than a change in pressure threshold, and a first interval has elapsed” as recited in claim 1, claim 1 is patentable over the combined references. The Examiner has cited to column 35 lines 28-30 and column 49, lines 8-12 to support the assertion that Gillespie teaches comparing a change in pressure to a threshold. However, these two portions of Gillespie relate a a pressure value, not a change in pressure value:

Finally, the Z signal exceeds threshold Ztap for at least some part of the stroke. Thus the stroke qualifies as a tap. Gillespie, Col. 35, lines 28-30.

FIG. 19 is a timing diagram illustrating a "push" gesture. To perform this gesture, the finger is first brought near enough to cause cursor motion without causing a virtual button press. Next, the finger pressure increases past threshold ZpushDown, causing the virtual button to be pressed. Gillespie, Col. 49, lines 8-12.

Each of these passages describes comparing a “pressure” with a threshold, not a “change in pressure” with a “change in pressure” threshold. As such, Gillespie does not

---

<sup>1</sup> 500 F.3d 1346 (Fed. Cir. 2007).

teach or suggest “outputting a press signal if the velocity is less than a velocity threshold, the change in pressure is greater than a change in pressure threshold, and a first interval has elapsed.” Astala does not cure this deficiency. Astala teaches a method for dragging a virtual object across a touch screen by dragging a finger across the touch screen. The portion cited by the Examiner does not relate to detecting a press event. Instead it relates to the detection of the drag gesture. The detection of a press is dealt with summarily:

The process begins at step 700. At step 702, a touch screen input is detected. That is, the touch of an object, such as a finger or pointed stylus, on the touch screen 70 is detected. This is illustrated in FIG. 6b by touch input 732 being disposed over the object file 1 of window 728. Astala, Col. 9, lines 15-19.

Thus, neither Astala, nor Gillespie in view of Astala, teach or suggest “outputting a press signal if the velocity is less than a velocity threshold, the change in pressure is greater than a change in pressure threshold, and a first interval has elapsed” as recited in claim 1. As such, claim 1 is patentable over Gillespie in view of Astala. Applicant respectfully requests the Examiner withdraw the rejection of claim 1.

Similar to claim 1, claim 19 recites “program code for outputting a press signal if the velocity is less than the velocity threshold, the change in pressure is greater than a change in pressure threshold, and a first interval has elapsed.” Claim 19 is patentable over Gillespie in view of Astala for at least the same reasons as claim 1. Applicant respectfully requests the Examiner withdraw the rejection of claim 1.

Because claims 2-3, 5-13, 16, 17, 20-23, 26, 27, and 29-32 each depend from and further limit either claim 1 or claim 19, claims 2-3, 5-13, 16, 17, 20-23, 26, 27, and 29-32 are each patentable over Gillespie in view of Astala for at least the same reasons. Applicant respectfully requests the Examiner withdraw the rejection of claims 2-3, 5-13, 16, 17, 20-23, 26, 27, and 29-32.

#### IV. § 103(a) – Gillespie in view of Astala and Geaghan – Claim 4

Applicant respectfully traverses the rejection of claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Gillespie in view of Astala and further in view of Geaghan.

To sustain a rejection under 35 U.S.C. § 103(a), the combined references must teach or suggest each and every element of the claimed invention. See M.P.E.P. § 2143.03.

Because Gillespie in view of Astala and further in view of Geaghan does not teach or suggest “outputting a press signal if the velocity is less than a velocity threshold, the change in pressure is greater than a change in pressure threshold, and a first interval has elapsed” as recited in claim 1, from which claim 4 depends, claim 4 is patentable over the combined references. As discussed above, Gillespie in view of Astala does not teach or suggest “outputting a press signal if the velocity is less than a velocity threshold, the change in pressure is greater than a change in pressure threshold, and a first interval has elapsed.” Geaghan does not cure this deficiency. Geaghan teaches that a change in pressure should be less than a threshold to detect a valid press event, not that a change in pressure should be greater than a threshold as recited in claim 1. Geaghan, Figure 1. Further, Geaghan states that if the rate of change of pressure is greater than a threshold, it “can indicate a double touch or an unstable touch. If the touch is stable and the rate of change is less than a threshold, a position can be reported.” Geaghan, Paragraph 50. As such, Geaghan teaches that a change in pressure greater than a threshold is undesirable when detecting a touch, contrary to elements recited in claim 4. Thus, claim 4 is patentable over the combined references. Applicant respectfully requests the Examiner withdraw the rejection of claim 4.

V. § 103(a) – Gillespie in view of Astala and Fujita – Claims 18 and 28

Applicant respectfully traverses the rejection of claims 18 and 28 under 35 U.S.C. § 103(a) as being unpatentable over Gillespie in view of Astala and further in view of Fujita.

To sustain a rejection under 35 U.S.C. § 103(a), the combined references must teach or suggest each and every element of the claimed invention. See M.P.E.P. § 2143.03.

Because Gillespie in view of Astala and further in view of Fujita does not teach or suggest “outputting a press signal if the velocity is less than a velocity threshold, the change in pressure is greater than a change in pressure threshold, and a first interval has

elapsed” as recited in claim 1, from which claim 18 depends, claim 18 is patentable over the combined references. As discussed above, Gillespie in view of Astala does not teach or suggest “outputting a press signal if the velocity is less than a velocity threshold, the change in pressure is greater than a change in pressure threshold, and a first interval has elapsed.” Fujita does not cure this deficiency.

Fujita generally teaches a touch panel with tactile feedback. However, Fujita teaches that detection of a press is made as follows:

Within the case 1, a press detection switch 6 is provided between the touch panel 3 and the touch-panel support plate 4 therebelow for detection of a press on the touch panel 3 at a pressure greater than a predetermined level  $P_t$  and for output of a press detection signal SS (see FIG. 2). The press detection switch 6 constitutes the press detecting means. The predetermined pressure  $P_t$  in this case means a pressure such as to cause the press detection switch 6 to output the press detection signal SS. Fujita, Col. 4, lines 19-27.

As such, Fujita teaches that a press is detected simply by detecting a pressure above a threshold. This is not the same as “outputting a press signal if the velocity is less than a velocity threshold, the change in pressure is greater than a change in pressure threshold, and a first interval has elapsed.” Thus, the combined references do not teach or suggest each and every element of claim 18. Therefore, claim 18 is patentable over the combined references. Applicant respectfully requests the Examiner withdraw the rejection of claim 18.

Claim 28 depends from claim 19, which recites “program code for outputting a press signal if the velocity is less than the velocity threshold, the change in pressure is greater than a change in pressure threshold, and a first interval has elapsed.” Claim 28 is patentable over the combined references for at least the same reasons as claim 18. Applicant respectfully requests the Examiner withdraw the rejection of claim 28.

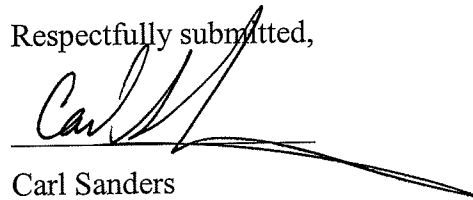
**CONCLUSION**

Applicant respectfully asserts that in view of the amendments and remarks above, all pending claims are allowable and Applicant respectfully requests the allowance of all claims.

Should the Examiner have any comments, questions, or suggestions of a nature necessary to expedite the prosecution of the application, or to place the case in condition for allowance, the Examiner is courteously requested to telephone the undersigned at the number listed below.

Date: 7/7/2008

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Carl Sanders', is written over a horizontal line. The signature is stylized with a large 'C' and a long, sweeping underline.

Carl Sanders  
Reg. No. 57,203

KILPATRICK STOCKTON LLP  
1001 West Fourth Street  
Winston-Salem, NC 27101  
(336) 607-7474 (voice)  
(336) 734-2629 (fax)